IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 2341 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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MAFATLAL PURSHOTAMDAS DESAI - Appellant(s)
Versus
MINAKSHIBEN PRATAPBHAI PARMAR - Defendant(s)

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Appearance :
MR CB DASTOOR for Appellant(s) : 1,
MR BHUNESH C RUPERA for Defendant(s) : 1,
None for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 13/07/2006

ORAL JUDGMENT

1. By way of this appeal, the appellant has challenged the judgement and decree dated 15.01.2005 passed by the District Court, Gandhinagar in H.M.P No. 120 of 2001 whereby the said H.M.P for dissolution of solemnized marriage was rejected and permanent alimony and maintenance was ordered to be paid to the respondent.

2. The appellant had filed an application under Section 13 of the Hindu Marriage Act, 1955 for the dissolution of his marriage by a decree of divorce on the ground of

utter cruelty and mental torture meted out to him by the respondent and thereafter deserting him for a continuous period of more than four years. The lower court after hearing the parties passed the aforesaid award.

3. This court on 16.06.2005 passed the following order:

> "With a view to enable Mr Dastoor to deposit the amount as directed by the trial Court, S.O to 13/7/06."

3.1 However, it is stated by Mr Dastoor, learned counsel for the appellant that the amount has not been deposited yet. He has further stated that he is not ready with the matter and sought adjournment which has been declined by this Court.

4. I have gone through the decree of the lower court. The lower court has gone into the oral and documentary evidence in detail and has observed that the appellant has produced no satisfactory evidence to prove that the respondent has willingly shifted to her parental home. The lower court, relying on Exh. 46, has observed that the fact that the appellant had withdrawn the temporary maintenance application, when the same was to be ordered in favour of the respondent, clearly indicates that the appellant is not inclined to look after the respondent. In that view of the matter, I am of the opinion that the

stand taken by the lower Court is justified and this appeal therefore does not carry any substance for interference.

5. For the foregoing reasons, appeal is dismissed. No order as to costs.

(K.S. JHAVERI, J.)

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